

MINUTES

**MONTANA SENATE
59th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON PUBLIC HEALTH, WELFARE AND SAFETY

Call to Order: By **CHAIRMAN BRENT R. CROMLEY**, on April 18, 2005
at 3:05 P.M., in Room 317 Capitol.

ROLL CALL

Members Present:

Sen. Brent R. Cromley, Chairman (D)
Sen. John Esp (R)
Sen. Duane Grimes (R)
Sen. Lynda Moss (D)
Sen. Jerry O'Neil (R)
Sen. Trudi Schmidt (D)
Sen. Dan Weinberg (D)
Sen. Carol Williams (D)

Members Excused: Sen. John Cobb (R)

Members Absent: None.

Staff Present: David Niss, Legislative Branch
Rita Tenneson, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: HJ 32, 4/15/2005
Executive Action: HJ 32

HEARING ON HJ 32**Opening Statement by Sponsor:**

SEN. LYNDA MOSS, SD 26, opened the hearing on **HJ 32**, Urge review of rules on provider payments, as **REP. JON SESSO (D), HD 76**, was presenting a bill in another committee at the time.

Proponents' Testimony:

Mike Calcaterra, Medical Provider, President, Big Sky Ames, stated that the resolution is aimed at solving problems with Medicaid. Through the years they haven't been able to work this out with the department. This has nothing to do with fraud abuse, he is talking about legitimate services provided by providers.

SEN. DAN HARRINGTON, SD 38, BUTTE, Harrington Surgical Supply and Medical Company, has been in business for 30 years. He said he has had a good relationship with people they have done business with. However, during the past five or six years, the relationship has deteriorated with State Medicaid. They were subject to the Medicaid audit. They disagreed and went through the Medicaid court and were exonerated. They are a small business and this cost them a lot of money. They would like the resolution passed so they can get back to a good relationship with State Medicaid.

Tom Mitchell, said he worked for **Harrington Surgical Supply** the past twenty years. They supply everything from gauze, sponges, canes, walkers, oxygen, hospital beds, etc. For years, there had never been a complaint about payment or reimbursement. Because of a change in some language in the DME Medicaid manual, problems resulted relative to their payments.

SEN. CROMLEY asked what DME meant. **Mr. Mitchell** told him DME is durable medical equipment.

Opponents' Testimony: None.

Informational Testimony:

Mary Dalton, Quality Assurance Commission Administrator, Department of Public Health and Human Services (DPHHS), said the bill came out of an earlier bill they opposed. They agreed a House Resolution would be in order to clear up some things the department needed to take care of.

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Questions from Committee Members and Responses:

SEN. SCHMIDT asked **Mrs. Dalton** what they opposed in the other bill. **Mrs. Dalton** answered that it prohibited them from recovering money on claims. The fiscal impact was \$2.7 million in general funds. This resolution instructs them to go back and get together with providers. They need to clarify some of the policies and procedures relative to the providers.

SEN. O'NEIL asked **Mrs. Dalton** what would happen if the resolution didn't pass. **Mrs. Dalton** said it wouldn't make any difference in the department's actions. This resolution gives the providers some kind of comfort in working with the department.

SEN. WEINBERG complimented **Mr. Calcaterra** on his diplomacy, but he didn't understand the problem from his point of view. **Mr. Calcaterra** told **SEN. WEINBERG** it is a difference of opinion of what the federal Medicaid law states. The law says the department should have things in effect to do both payment reviews and recoup for overpayments. If you bill under one code and the department says you billed under the wrong code, they take all the money back, not just the difference. They don't do their reviews until three to eight years later. **SEN. WEINBERG** asked if he thought this was an isolated case. **Mr. Calcaterra** said about 70% of their members had gone through an audit. There are hundreds of Medicaid providers in the State of Montana. The only providers that have been audited are the ones that are adhering to the law.

SEN. CROMLEY asked **REP. SESSO** if he wished to say anything prior to closing. **REP. SESSO** expressed his appreciation for the Committee calling the meeting on the hearing. The bill they had designed for addressing the problem was killed in committee. The resolution is on the advise of the committee, members of the House and the department. The bill is important in encouraging the parties to come together.

SEN. GRIMES asked **Mary Dalton**, referring to page 2 of the resolution, to have on record that it is the Committee's intention the department be doing the audits and working with the medical providers on a solution.

SEN. CROMLEY asked **REP. SESSO** if it was his intent the therefore clause will only address the DME issue. **REP. SESSO** answered that was what he is here to address.

SEN. CROMLEY asked if anyone present, who did not understand the resolution to mean that the work being done by the department will be directed solely to the issue of DME reimbursement, he would appreciate them coming forward now. Nobody came forward.

Closing by Sponsor:

REP. SESSO thanked **SEN. MOSS** for opening for him and to the Committee for hearing the resolution. He had two points. He was not here to represent anybody doing medicaid fraud. If they are doing anything wrong, he is encouraging the department to continue to make sure they recover all dollars associated with fraud abuse. He said there is clearly a gap between honest providers who do the best they can to keep up with the rules and provide services, at the best cost, as the doctors prescribe it, relative to these audits. Going back, after extended periods of time, and asking providers to give the money back is not right. The resolution asks to give some assurance to these providers that, when rules change, the department makes sure this addressed.

SEN. GILLAN will carry the bill on the Senate floor.

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EXECUTIVE ACTION ON HJ 32

Motion/Vote: **SEN. WEINBERG** moved that HJ 32 BE CONCURRED IN. Motion carried 8-1 by voice vote with **SEN. ESP** voting no. **SEN. GRIMES**, **SEN. WILLIAMS** and **SEN. COBB** voted aye by proxy.

SEN. GILLAN will carry the bill on the Senate floor.

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ADJOURNMENT

Adjournment: 3:35 P.M.

SEN. BRENT R. CROMLEY, Chairman

RITA TENNESON, Secretary

BC/rt

Additional Exhibits:

EXHIBIT ([phs83aad0.PDF](#))